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Pottawatomie Indians of Kansas and the Indian Territory

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POTTAWATOMIE INDIANS OF KANSAS AND THE INDIAN TERRITORY.

JUNE 20, 1884.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. PERKINS, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany bill H. R. 4456.]

The Committee on Indian Affairs, to whom was referred the bill (H. R. 4456) to enable the Secretary of the Interior to make settlement with the Pottawatomie Indians residing in Kansas and the Indian Territory, report the same back to the House with the following conclusions and recommendations:

This bill appropriates \$227,851.31, with interest at 5 per cent. from January 22, 1869. It directs a reduction from that amount of the sum paid by the United States to the Creek and Seminole Indians for the new reservation of the Pottawatomies in the Indian Territory. That reservation is 30 miles square and contains 575,887 acres; and there is unpaid on the cost of the same the sum of \$119,657.40. (See the letter of the Commissioner of Indian Affairs of the date of February 26, 1884, attached hereto and made part hereof.)

The first and second articles of the treaty of August 7, 1868, with said Indians (15 Stat., 536) provided for the purchase of a new reservation in the Indian Territory and payment for the same.

This claim is founded upon the tenth article of the treaty already referred to. It provides for two classes of claims:

(1.) For depredations to stock, timber, or other property. Upon presentation of the claim and evidence to the Department of the Interior, it was to make examination, and to report to Congress the amount equitably due "in order that such action may be taken as shall be just in the premises."

The present claim is founded entirely upon the next clause of this article, viz:

(2.) The claims heretofore examined and reported on by the Secretary of the Interior, under the act of March 2, 1861, were to be submitted to two commissioners to be named by the President, who were to be sworn to impartially *decide* on said claims, and report their *judgment* in the premises, together with the evidence taken, to the Secretary of the Interior, and he was to communicate the same to Congress at its next session; provided that no part of the money reported due by said commissioners shall be paid until the same shall be appropriated by Congress.

Your committee understand by this language that Congress would make an appropriation to meet what should be found due by these two commissioners, who were to decide upon the claims and report their

judgment to the Secretary. The original article 10 expressly provided that \$164,584, reported by the Secretary of the Interior December 19, 1862, in pursuance of the act of March 2, 1861, should be paid to the Pottawatomie tribe. It was amended by the Senate so that the amount due should be submitted to the two commissioners as before stated.

The claims of the Pottawatomies were submitted to said commissioners under the act of March 2, 1861 (12 Stat., 207). This act required the Secretary of the Interior to report to Congress at its next session the amount, if any, due—

First. To the Chippewa, Ottawa, and Pottawatomie Indians, "now residing in the State of Michigan," under the treaties of July 29, 1829, the 26th of September, 1833, and the articles supplementary thereto of September 27, 1833, and under the 5th and 17th of June, 1846, with the Pottawatomie Nation of Indians.

Second. Whether any money or property was due to the Pottawatomie Nation under the treaty of October 26, 1832, or other treaties, and if so, what amount.

It thus appears that two reports were to be made, one of the amount due to the Chippewa, Ottawa, and Pottawatomie Indians residing in the State of Michigan under certain treaties, all of which are specifically named in the act; and the other of the amount due to the Pottawatomie Nation proper, under the treaty of October 26, 1832, and all other treaties whatever. The claims of the Chippewa, Ottawa, and Pottawatomie Indians of Michigan not being now under consideration, it is not necessary to go into an examination of the provisions of the treaties referred to in the first branch of this act.

The second branch of the act required the Secretary to examine and report upon the money and property due the Pottawatomie Nation under the treaty of October 26, 1832, and all *other treaties*.

The then Secretary of the Interior performed this duty, and reported that he found due to the Pottawatomie Nation \$160,540.48, and 11,000 pounds of tobacco, 567 pounds of iron, 855 pounds of steel, and 672 pounds of salt. (See the report of Hon. Caleb B. Smith, Secretary of the Interior, dated December 19, 1862, and found in Ex. Doc. No. 19, House of Representatives, Thirty-seventh Congress, third session.)

The amount due to the Pottawatomie Nation remained open and unsettled until the treaty of August 7, 1868 (15 Stat., 536), heretofore referred to.

By the tenth article of that treaty, as originally agreed upon, it was provided—

That the sum of \$164,584 reported by the Secretary of the Interior, on the 19th day of December, 1862, in pursuance of an act of Congress approved March 2, 1861, and recommended to be paid, shall be paid to said tribe.

The Senate doubtless taking into account the fact that there must be more or less uncertainty in the ascertainment of the amount due, and believing that a more thorough examination ought to be made, so as to do full justice to all parties, struck out the clause above quoted, and inserted in its stead the following:

And it is further agreed that the claim, of the Pottawatomies heretofore examined and reported on by the Secretary of the Interior under the act of Congress of March 2, 1861, shall be submitted to two commissioners, to be named by the President of the United States, for examination, and said commissioners, after being sworn impartially to decide on said claims, shall make report of their judgment in the premises, together with the evidence taken, to the Secretary of the Interior, and the same shall be communicated to Congress at its next session: *Provided*, That no part of the money reported due by the said commissioners shall be paid until the same shall be appropriated by Congress.

In accordance with the provisions of this article the President appointed Charles Rowland and Stephen D. Mills, who were first duly sworn and entered upon the discharge of the trust reposed in them.

It appears that they made a thorough, full, and careful examination of all the evidence contained in the Indian Office and the accounting offices of the Treasury Department, and as a result of their investigations they found and decided that there was due from the United States to the Pottawatomie Nation, under and by virtue of treaty stipulations, the sum of \$178,953.43. The interest on \$160,540.48, at 5 per cent. from December 19, 1862, six years one month and three days, would be \$48,897.95, and said commissioners awarded this sum to be equitably and justly due said Pottawatomie Nation for interest, which, added to \$178,953.43, makes the total amount found due to said nation by the commissioners \$227,851.38.

They duly made their report to the Secretary of the Interior, and he communicated it to Congress. It bears date December 29, 1869, and can be found in House Ex. Doc. No. 61, Fortieth Congress, third session.

The treaties examined by the said commissioners commence with the treaty of December 2, 1795, and come down to the treaty of July 23, 1846. They give as the result of their investigations the following tabular statement of stipulations, payments, and balances:

Statement of stipulations, payments, and balances.

RECAPITULATION.

Schedule.	When proclaimed.	To what date calculated.	Stipulations.	Payments.	Due Indians.	Due United States.
A.....	Dec. 2, 1795	Dec. 2, 1860	\$65,000 00	\$42,000 00	\$23,000 00	.....
B.....	Dec. 26, 1803	Dec. 26, 1860	3,800 00	2,200 00	1,600 00	.....
C.....	Apr. 24, 1806	Apr. 24, 1826	5,000 00	.....	5,000 00	.....
D.....	Jan. 27, 1808	Jan. 27, 1861	21,200 00	16,800 00	4,400 00	.....
E.....	Jan. 16, 1810	Jan. 16, 1861	25,500 00	20,250 00	5,250 00	.....
F.....	Dec. 30, 1816	Dec. 30, 1828	12,000 00	12,000 00	.....	.....
G.....	Jan. 4, 1819	Jan. 4, 1861	19,500 00	.....	.....	.....
H.....	Jan. 15, 1819	Jan. 15, 1861	105,000 00	103,750 00	1,250 00	.....
I.....	Mar. 25, 1822	Mar. 25, 1861	132,250 00	112,235 23	20,044 77	.....
K.....	Feb. 7, 1827	Feb. 7, 1861	200,263 37	208,620 47	.....	\$8,357 10
L.....	Jan. 7, 1829	Jan. 7, 1861	208,203 00	194,957 91	13,245 09	.....
M.....	Jan. 2, 1830	Jan. 2, 1861	527,351 00	501,629 01	25,721 99	.....
N.....	Jan. 21, 1833	Jan. 21, 1861	419,309 83	413,780 33	5,529 50	.....
O.....	Jan. 21, 1833	Jan. 2, 1861	701,148 50	661,431 61	39,716 89	.....
P.....	Feb. 21, 1835	Feb. 21, 1861	208,721 00	299,349 29	.....	628 29
Q.....	Feb. 21, 1835	Feb. 21, 1861	1,304,399 99	1,319,664 99	.....	15,265 00
R.....	Feb. 21, 1835	Feb. 21, 1861	110,000 00	112,200 00	.....	2,200 00
S.....	Feb. 18, 1837	Feb. 18, 1861	135,604 33	135,604 33	.....	.....
T.....	July 23, 1846	July 23, 1860	629,286 00	629,286 00	.....	.....
Deficiency for outfit for emigrating Indians.....					28,442 02	.....
For emigrating Indians.....					62,590 00	.....
Payment to Pottawatomies prior to 1819.....					.....	30,387 34
					235,791 16	56,837 73
Balance due Pottawatomies, as awarded.....					178,953 43	.....
Interest awarded said Indians.....					48,897 95	.....
Total amount due Pottawatomie Nation.....					227,851 38	.....

The report of said commissioners, embraced in the document above referred to, is a pamphlet of thirty pages, to which reference may be had for further particulars. It appears that no part or portion of the sum due said Indians by the Government has ever been paid. It was found by a tribunal selected solely by the United States and clothed with judicial powers. The object of the submission of the claim to the commissioners was, that all disputed points should be settled and their decision should be final.

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This claim has been favorably reported upon by too different committees of the House of Representatives. One report, No. 319, was made at the second session Forty-third Congress, and the other, No. 291, at the first session Forty-fourth Congress.

Your committee are of the opinion that the amount found due by said commissioners is a just and valid claim against the United States and should be paid, and therefore your committee report back the bill with the following amendment:

Strike out all that portion of section 1 which comes after the word "cents" in the fourth line, down to and including the word "annum" at the end of the sixth line, so that no interest shall be granted in addition to the full amount found due by the commissioners.

With the bill so amended your committee recommend its passage.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, February 26, 1884.

GENTLEMEN: In reply to your communication, dated February 19, 1884, received by Department reference, I have to inform you that the United States acquired title to the Pottawatomie Reservation in the Indian Territory from the Creeks and Seminoles by the treaties of June 14, 1866 (14 Stat., 785), and March 21, 1866 (14 Stat., 755), respectively, as of those dates.

By the Creek treaty the United States paid 30 cents per acre for the land acquired from that nation, and by the Seminole treaty, 15 cents per acre for the land acquired from the latter nation.

The area of the lands in the Pottawatomie Reservation acquired from the Creeks is 222,716.32 acres, and the cost to the United States \$66,814.90.

The area of the lands acquired from the Seminoles is 353,160.68 acres, and the cost to the United States \$52,974.10. The total cost of the Pottawatomie Reservation is therefore \$119,789.

Joshua E. Clardy has paid for 877.36 acres of Seminole lands allotted to himself and family, \$131.60, leaving a balance unpaid of \$119,657.40.

The first article of the Pottawatomie treaty of February 27, 1867 (15 Stat., 531), provides for the selection of a tract of land not exceeding 30 miles square, to be set apart as a reservation for the exclusive use and occupancy of the Pottawatomie tribe to be patented to the nation.

The second article provides that in case the new reservation shall be selected upon lands purchased by the Government from the Creeks, Seminoles, or Choctaws, the price to be paid for said reservation shall not exceed the cost of the same to the Government, the sum to be paid to be taken out of the amount to be paid by the Leavenworth, Pawnee and Western Railroad Company for the lands sold to them under the treaty of 1861 (12 Stat., 1191).

The first section of the act of May 23, 1872 (17 Stat., 159), provides for certificates of allotments to each member of the Pottawatomie band residing on the 30-mile square tract, "and that the cost of such lands to the United States shall be paid from any fund now held or which may hereafter be held by the United States for the benefit of such Indians, and charged as a part of their distributive share, or shall be paid for by said Indians before such certificates are issued."

The second section provides for the allotment of 80 acres within said 30-mile square tract to any Indian of pure or mixed blood of the Absentee Shawnees, being the head of a family or person over twenty-one years of age, who has complied with certain conditions and the issuance of certificates therefor.

Three hundred and twenty-seven allotments have been made under the second section of this act, but no certificates have been issued.

The Shawnees are not required to pay for the land.

Very respectfully,

H. PRICE,
Commissioner.

Messrs. A. F. NAVARRE and JOHN ANDERSON,
No. 224 Third street N. W., Washington, D. C.